

REMARKS

This reply is fully responsive to the Final Office Action dated May 19, 2004, and is filed within three- (3) months following the mailing date of the Final Office Action.

Claims Status Summary:

Claims 1 - 6 are pending in the application.

Claims 1 - 6 were finally rejected under 35 U.S.C. 103(a) as being unpatentable over Musgrove et al. (US 6,535,880).

I. Benefit of earlier filing date; right of priority:

As indicated on page 1 of the specification, Applicant has claimed the benefits of priority from related U.S. Provisional Application Serial No. 60/188,770, filed March 13, 2000. The filing date of March 13, 2000 of the Provisional Application 60/188,770, which is the effective filing date of the present application, **antedate** the filing date of May 9, 2000 of the Musgrove et al reference (6,535,880).

Accordingly, in view of the effective filing date of the Applicant's patent application, the Musgrove et al. reference is not considered prior art, and therefore, cannot be used against Applicant's claims. It is respectfully requested that the Musgrove et al reference be withdrawn. With the withdrawal of the reference, no other objections or rejections remain against the claims.

Accordingly, it is respectfully submitted that the application is now in condition for allowance, and an early notification of the same is requested. Please note that in accordance with the MPEP 715 an affidavit or declaration under 37 CFR 1.131 is not necessary to antedate the Musgrove et al. reference, and in fact inappropriate if submitted.

MPEP 715: *"Where the effective filing date of applicant's or patent owner's parent application or an International Convention proved filing date is prior to the effective filing date of the reference, an affidavit or declaration under 37 CFR 1.131 is unnecessary because the reference is not used."*

II. Objection to the Drawings under 37 CFR 1.83(a):

The Final Office Action objected to the original drawing under 37 CFR 1.83(a). The Final Office Action states that "The original drawing must show the Fig. 1 marking in the drawings figure as the new drawings Figures presented necessitates such."

Applicant has submitted herewith a new corrected sheet of drawing labeled as Fig. 1 in response to the objection under 37 CFR 1.83(a) by the Final Office Action. The proposed new drawing is simply labeled as Fig. 1, and therefore is fully supported by the original disclosure.

In view of the submission of this new drawing, Applicant respectfully requests the withdrawal of the objection raised under 37 CFR 1.83(a).

III. Claims Rejections - 35 USC §103(a):

The Final Office Action rejected Claims 1 - 6 under 35 U.S.C. 103(a) as being unpatentable over Musgrove et al. (6,535,880). Applicant respectfully traverses the rejection, modification, and interpretation of the reference.

Claim 1:

Applicant's claim 1 states, inter alia,

"...Organizing a merchant server network to provide electronic access thereto by a plurality of participating merchants, with each said participating merchants having a unique merchant ID offering pre-approved products for purchase;"

Musgrove et al. do not teach or suggest (implied or otherwise) the claimed limitation of *"...Organizing a merchant server network to provide electronic access thereto by a plurality of participating merchants having a unique merchant ID offering pre-approved products for purchase;"*

The entire Musgrove et al. teachings regarding any computer architecture for effecting commerce in a networked environment is based on the use of a

plurality of merchant servers 40. The claim 1 limitation of the present invention specifically requires "...*organizing a merchant server network...*" The Musgrove et al. reference in column 4, lines 59+, in reference to Fig. 1, state that "**A plurality of merchant servers 40** provide on-line shopping using conventional commerce server control applications..." All the product information from all of the plurality of merchant servers 40 databases is culled into a product database 26 within a Shopping server 20, and presented to the end users. Merchants must have their own server databases to provide product information to the main product database 26 (column 5, lines 15 to 25). In addition, it is up to the individual merchants to update their product information database on their merchant servers 40, with the updated information culled in the main product database 26 of shopper server 20. If merchants do not update or maintain their product information database on their servers 40, the information culled in database 26 and provided to the end users will not be up-to-date.

The claimed limitation of the present invention provides for "...**a merchant server network to provide electronic access thereto by a plurality of participating merchants** having a unique merchant ID offering pre-approved products for purchase;" (Emphasis added.) That is, the claimed limitation allows **a plurality of participating merchants** to be organized on **a merchant server network**. In other words, with the system architecture of claim 1, the merchants do **not** need to provide or to have their own server database systems in order to have a presence on the Internet to market their products, but only a simple

means to access the claimed "...*merchant server network*." That is, claim 1 limitation eliminates the need for each merchant to maintain their own server or Personal Computer (PC) databases, including the purchase and update of software that run on the servers. The maintenance of any computer system is very complicated, especially database systems. Most merchants are not in the business of computers, but may be small operation travel agents, grocery owners, and so on with no time or the "know-how" about database servers or database server applications to use or maintain these complex systems. Therefore, unlike Musgrove et al., the claim 1 system architecture effects commerce in a networked environment by providing an economic equilibrium between small and large merchants, allowing small merchants to effectively compete by having a presence on the Internet to market their products without purchasing or maintaining a complex server or PC databases. Further more, unlike the Musgrove et al. where there is a one-to-one correspondence between merchants and their server databases, the claim 1 of the present invention eliminates the need for each merchant to have a server or computer database.

A further added benefit of the claim 1 system architecture is reduction in parts of the overall system, eliminating the use of a plurality of conventional commerce server databases and server control applications. Therefore, the system architecture of the present invention is much simpler than that of Musgrove et al. reference without loss of capability.

Claim 1 further recites, inter alia,

"...establishing a purchaser server network electronically coupled to the merchant server network for real time information communication providing the particulars of purchase..."

Musgrove et al. do not teach or suggest (implied or otherwise) the claimed limitation of *"...establishing a purchaser server network electronically coupled to the merchant server network for real time information communication providing the particulars of purchase..."*

As stated in column 7, lines 52+ of Musgrove et al., "...up to the time of generating confirmation-page 58 communication has been between client computer system 12 and shopping server 20 using information from product database 26, which might not be entirely updated due to the fluid state of on-line commerce. " In other words, with the Musgrove et al system, the client 12 searches and selects a product from the product database 26, which may have out-dated information about the already selected product. This is not real time. The claim 1 of the present invention requires *"...offering pre-approved products for purchase...establishing a purchaser server network ... for real time information communication providing the particulars of purchase..."*

The Musgrove et al. reference continues in column 7, lines 57+ by stating that "Accordingly, confirmation-page 58 includes real-time pricing and shipping

information obtained from server 40 for each selected product in transaction record 54." That is, after the user selects a product based on probably an old and out-dated data, the Shopper server 20 generates a confirmation page 58, which then hopefully obtains updated information about the already selected product from a merchant server 40 database. (This assumes that the merchant has updated its merchant server database ready to be read by confirmation page 58.) The updated product information may be different from that which enticed the client 12 to select to purchase the product. For example, a product may have been priced very competitively, which lured the client 12 to select to purchase it. However, once the product is selected, the confirmation page 58 generated as the result of the selection will provide a so-called "real time" updated information that may cause the client 12 to rescind its selection. For example, the updated information may have a price that is higher than the price the client 12 originally retrieved from the database 26. Again, the claim 1 of the present invention requires *"...offering pre-approved products for purchase...establishing a purchaser server network ... for real time information communication providing the particulars of purchase..."*

A first fundamental drawback with the system described in Musgrove et al is that it assumes that the merchant periodically updates the information on the merchant server databases so that confirmation pages 58 of Shopper server 20 can retrieve updated information therefrom. That is, if the information on the merchant server database is not updated by the merchant, the so-called "real

time" information obtained by the confirmation page 58 of the Shopper server 20 will also be old and out-dated data.

A second fundamental drawback with the system described in Musgrove et al. is the compatibility issue. All merchants are required to purchase and operate server or PC database systems that are compatible with the software programs residing in the Shopper server 20. The generated confirmation page 58 of the Shopper server 20 would not be able to extract any data from the merchant databases if the databases and the Shopper server 20 software are not compatible. The versioning compatibility is yet another issue. If Shopper server 20 is updated with a new version of its software, all merchant servers 40 must also update their version to avoid compatibility issues with versioning.

With claim 1 of the present invention, the purchaser selecting a product will know that the displayed product information that attracted the user interest to select a product is fully updated, and in fact, as recited in claim 1, "...pre-approved..." The updating of data of the present invention is done on "...a merchant server network...of participating merchants," and not on individual merchant server databases. The claim 1 of the present invention does not require merchants to have any database to participate in the system, and therefore, the claimed merchant server network is independent of any systems that the merchants may or may not have or use. With claim 1 of the present invention, there is no need for a "confirmation page 58," as taught by Musgrove

et al., to update the claimed "... *merchant server network*..." All data is updated on the claimed "... *merchant server network*..." itself, **independent** of anyone having any servers or not. With claim 1 of the present invention, there are no compatibility issues between merchants, merchant server network, purchaser server network, shopper computers, etc.

Claim 1 further recites, inter alia, "...*establishing a purchaser server network electronically coupled to the merchant server network for real time information communication providing the particulars of purchase*..." That is, the claimed merchant server network is electronically coupled to the claimed purchaser server network, and provides real time information. The information is indeed in real time because the claim does not require the "two step" process of updating data, as is taught by the Musgrove et al. reference. That is, with Musgrove et al. the data is updated by 1) the merchants updating their server 40 databases, and 2) the Shopper server 20 updating the product database 26 based on the information residing in the merchant databases, using confirmation page 58. The merchant server network of the present invention has all the updated data in its database, and there is no need to cull updated data from any other servers, and therefore no "two step" process to retrieve any data, as taught by Musgrove et al.

Musgrove et al. further do not teach or suggest (implied or otherwise) the claimed limitations of an e-mail receipt, product-pickup locations, and the viewing

of particulars by the merchants as is correctly acknowledged by the Final Office Action on page 3, line 1+.

The Final Office Action further purports on page 3, lines 6-7 that the language of the claim 1, line 15 reciting, inter alia, the phrases "...allowing...to be' do not positively recite claim limitations that provide patentable subject matter."

Applicant respectfully traverses the purported interpretation of the Final Office Action that this language of the claim is "intended use," with no positive recitation of the claimed limitations.

Claim 1 does not recite, inter alia:
"...said manipulating step including allowing for specific particulars to be editable..."

The claim 1 positively recites, inter alia:
"...said manipulating step including allowing specific particulars to be editable..."

Accordingly, there is a positive recitation of the claim limitation, *"allowing specific particulars to be editable."*

The Final Office Action further states on page 3, lines 12-14 that "Official Notice is taken that using e-mail as a means for a transaction record and picking-

up a product at a selected preferred location after ordering the product is common knowledge in the art of commerce."

It is not understood from which claim the Final Office Action has taken the literal language "using e-mail as a means for a transaction record and picking-up a product at a selected preferred location after ordering the product." The cited language of the Official Notice does not appear in any claim. The phrase "e-mail" and "transactions" appears in claim 3, and "pick-up" and "preferred locality" appear in claim 1. The term "product" is recited in both claims 1 and 3. In addition, even if one assumes that the Final Office Action has some how combined the two claims, and in some way summarized the combination, the language is still incorrect. The preferred locations for pick-up of products are **not** done "after ordering the product," but after actual purchase.

Nonetheless, Applicant strongly traverses the assertions made by the Official Notice in the Final Office Action, and respectfully demands evidence from the Office to cite a reference, which antedates the effective filing date of the present application, and that supports such a position with respect to the actual language of the claim, in the next non-Final Office Action. MPEP 2144.03.

Accordingly, as required by the claim 1 of the present application, the evidence from the Office must show as common knowledge in the art of commerce the claimed "... *establishing a product pick-up network in electronic*

communication with a plurality of separately located product pick-up locations; and completing a purchase transaction by the purchaser entering a locality identifier to retrieve options from participating merchants for payment and pick-up in a preferred locality." Furthermore, as required by claim 3 of the present application, the evidence from the Office must also show as common knowledge in the art of commerce the claimed "...said completing step includes releasing selected pre-approved product to the purchaser upon presentation of identifying password, ID form and e-mail receipt in order to match the purchaser with the selected pre-approved product, purchase transactions and participating merchant."

Furthermore, if such assertions by the Official Notice in the Final Office Action is based on facts within the personal knowledge of the Examiner, it is respectfully requested that an affidavit from the Examiner be provided to Applicant, stating specifically the facts that support such assertions that show as common knowledge in the art of commerce the claimed "... establishing a product pick-up network in electronic communication with a plurality of separately located product pick-up locations; and completing a purchase transaction by the purchaser entering a locality identifier to retrieve options from participating merchants for payment and pick-up in a preferred locality." Furthermore, as required by claim 3 of the present application, the evidence from the Office must also show as common knowledge in the art of commerce the claimed "...said completing step includes releasing selected pre-approved product to the

purchaser upon presentation of identifying password, ID form and e-mail receipt in order to match the purchaser with the selected pre-approved product, purchase transactions and participating merchant."

Applicant respectfully requests that if the Office continues to maintain the assertions made under Official Notice, then the finality of the Office Action be withdrawn to provide the Applicant the opportunity for an appropriate response. MPEP 2144.03. Nevertheless, for the purposes of this response, Applicant respectfully submits that the claims as written are not obvious over the Official Notice taken by the Final Office Action, and in fact, it is not even understood to which claim is the literal language of the Official Notice directed so that Applicant can respond appropriately.

Please note that the technology taught by the present application is highly technical, related to e-commerce, requiring highly skilled computer, networking, business personnel, and therefore a true esoteric technology. MPEP 2144.03 states that "Assertions of technical facts in areas of esoteric technology must always be supported by citation of some reference work" and "allegations concerning specific 'knowledge' of the prior art, which might be peculiar to a particular art should be supported."

Regardless, Applicant respectfully requests the withdrawal of the rejection of claim 1 under 35 USC 103 because Musgrove et al. do not render as obvious

the claimed limitations for all the aforementioned reasons. Hence, Applicant respectfully submits that claim 1 is allowable over the cited reference and solicits reconsideration and allowance of this claim.

Claims 2 - 6:

With respect to the "*e-mail receipt*," which is recited in claim 3, the Final Office Action stated that "Regarding the e-mail receipt, Musgrove does disclose communication in any known format, e.g. col. 9, lines 15-45."

The following paragraphs are analysis of lines 16 to 41 of column 9 with respect to claim 3, where the phrase "e-mail receipt" is recited:

Musgrove et al. in column 9, **lines 16 to 21** state: "The invention can be implemented over any type of communication channels such as the Internet, local area network (LAN), a wide area network (WAN), direct computer connections, or the like, using any type of communication hardware and protocol." In this passage, the Musgrove et al. implement the communication channel (the Internet, LAN, WAN, etc.) using communication hardware and protocol. The communication hardware is comprised of the servers 40, client computers 12, etc. The communication protocol refers to the network topology. That is, the way the servers 40 and computers 12 are connected (LAN, WAN, etc.) and communicate, such as using Carrier Sense Multiple Access (CSMA) or CSMA with collision avoidance (CSMA/CD), which are published by International

Standards Organization (ISO) and Open System Interconnection (OSI). It is not understood how this passage meets the claim 3 limitation of *"...said completing step includes releasing selected pre-approved product to the purchaser upon presentation of identifying password, ID form and e-mail receipt in order to match the purchaser with the selected pre-approved product, purchase transactions and participating merchant."*

Continuing, Musgrove et al. in column 9, **lines 21 to 32** state: "Any type of hardware or combination of hardware can be used for the various clients and servers..." This entire passage, from lines 21 to 32, is directed to the hardware systems used for the client and the plurality of servers 40. Again, it is not understood how this passage meets the claim 3 limitation of *"...said completing step includes releasing selected pre-approved product to the purchaser upon presentation of identifying password, ID form and e-mail receipt in order to match the purchaser with the selected pre-approved product, purchase transactions and participating merchant."*

Continuing further, Musgrove et al. in column 9, **lines 32 to 36** state: "Any appropriate server or client software can be used and any communication protocols can be used. Communication can be accomplished over electric cable, fiber optic cable, any other cable, or in a wireless manner using radio frequency, infrared, or other technologies. As is evident from the context of the reference, the communication protocol is referring to, for example, Secure Socket Layer

(SSL) connection protocols, HyperText Transfer Protocols (HTTP), etc. In addition, the Musgrove et al. reference states the use of the standardized types of connections to physically connect two or more computers, such as electric cable, fiber optic cable, any other cable, or in a wireless manner using radio frequency, infrared, or other technologies. Again, it is not understood how this passage meets the claimed limitation of *"...said completing step includes releasing selected pre-approved product to the purchaser upon presentation of identifying password, ID form and e-mail receipt in order to match the purchaser with the selected pre-approved product, purchase transactions and participating merchant."*

Finally, Musgrove et al. in column 9, **lines 36 to 41** state: "Any interface can be used for selecting products for purchase. The various information can be stored in any format and thus the term "database" as used herein refers to any collection of information such as a database file, a lookup table, or the like." Again, it is not understood how this passage meets the claim 3 limitation of *"...said completing step includes releasing selected pre-approved product to the purchaser upon presentation of identifying password, ID form and e-mail receipt in order to match the purchaser with the selected pre-approved product, purchase transactions and participating merchant."*

Clearly, no where in the passage cited by the Final Office Action (col. 9, lines 15 to 45 of Musgrove et al.) do the terms "e-mail," "e-mail receipt," or any

of the claim 3 limitations of *"...said completing step includes releasing selected pre-approved product to the purchaser upon presentation of identifying password, ID form and e-mail receipt in order to match the purchaser with the selected pre-approved product, purchase transactions and participating merchant,"* appear.

The Musgrove et al. reference in column 9, lines 15 to 45 or any other portions thereof do not teach or suggest (implied or otherwise) the claimed limitation of *"...said completing step includes releasing selected pre-approved product to the purchaser upon presentation of identifying password, ID form and e-mail receipt in order to match the purchaser with the selected pre-approved product, purchase transactions and participating merchant."*

Accordingly, Applicant respectfully requests the withdrawal of the rejection of all the claims under 35 USC 103 because the particular cited passages of the Musgrove et al, and in fact the Musgrove et al. reference in its entirety, do not render as obvious the claimed limitations for the aforementioned reasons. Hence, Applicant respectfully submits that all the claims are allowable over the cited reference and solicits reconsideration and allowances thereof.

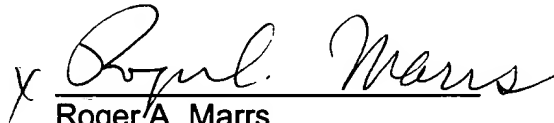
In particular, since claims 2 - 6 depend from claim 1 and incorporate all of its limitations, they are patentable for the same reasons given with respect to claim 1, and even more patentable because they add additional limitations which

further distinguish them from the reference cited. Hence, Applicant respectfully solicits reconsideration and allowance of claims 2 - 6, as well.

CONCLUSION

It is respectfully submitted that the application is now in condition for allowance, and an early notification of the same is requested. If it is believed that a telephone interview will help further the prosecution of this case, Applicant respectfully requests that the undersigned Patent Agent be contacted at listed telephone number.

Respectfully submitted,

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